

MEMORANDUM



DATE: September 18, 2012
TO: All Interested Parties
FROM: Erik Jonasson, Fiscal Analyst
RE: Drug Treatment Courts and Swift and Sure Sanctions Programs

This memorandum summarizes the current state of drug treatment courts and drug treatment court funding in Michigan, as well as a brief summary of Swift and Sure Sanctions programs. This includes descriptions of the courts, current funding practices, and estimates of the short and long term savings related to a successfully run drug treatment court.

Background

When a person is convicted of a criminal offense, penalties typically include fines, incarceration, or probation. However, if an offense is the result of an underlying condition - such as mental illness or substance abuse - traditional court processing may not fully address the core reason an offender committed a crime, and these offenders are more likely to commit future crimes. Thus, several trial courts have implemented specialty courts which aim to address underlying issues for offenders in order to reduce the likelihood that they will offend again. By providing more specialized attention, these courts can address the reasons that certain populations have high recidivism rates, and thus reduce overall crime rates.

Drug treatment courts are among the most common specialty courts, providing treatment programs to alcohol-or drug-addicted nonviolent offenders. These programs involve regular drug testing, frequent judicial interaction, and treatment programs to rehabilitate offenders. These courts are defined by ten key components set out by the Department of Justice.¹ These ten components are:

1. Integrating alcohol and other drug treatment services with justice system case processing.
2. Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
3. Eligible participants are identified early and promptly placed in the drug court program.
4. Access is provided to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
5. Abstinence is monitored by frequent alcohol and other drug testing.
6. Responses to participants' compliance are governed by a coordinated strategy.
7. Ongoing judicial interaction with each drug court participant.
8. Program goals are monitored and evaluated to gauge effectiveness.
9. Interdisciplinary education to promote effective drug court planning, implementation, and operations.
10. Drug courts forge partnerships with public agencies and community-based organizations to generate local support and enhance program effectiveness.

These components are also the basis for qualification for federal and state drug treatment court grants.

¹: <https://www.ncjrs.gov/pdffiles1/bja/205621.pdf>

Local courts have been operating drug treatment courts since at least 1992, using local, federal, and private sources of revenue to fund operations. The state first appropriated funds for drug courts in the FY 1998-1999 Judiciary budget, initially providing \$1.0 million for the Drug Court Grant Program. Drug courts in their current form are operated according to policies described in section 10A of the Revised Judicature Act, which was created through P.A. 224 of 2004 (MCL 600.1060-1084). Funding for such grants are dependent on annual appropriations by the legislature, available restricted fund revenue, and grants to the state from the federal government.

Federal grant programs such as the Drug Court Discretionary Grant Program also provide funds to some drug treatment courts. These three year grants are typically provided to courts that are either being established or expanded, and courts are required to show they are capable of becoming self-sustaining once federal funding is no longer provided. As such, most courts rely on local sources of revenue to maintain their drug treatment courts. These sources may include fees paid by drug court participants, contributions from private and nonprofit donors, and other revenue typically dedicated to trial court operations. The exact funding models vary from court to court, with ratios between local, state, and federal fund sources varying significantly.

Types of Drug Courts

The term 'drug treatment court' can apply to a variety of different specialty court programs, each serving a different function. These courts are: adult drug treatment courts, juvenile drug treatment courts, family dependency courts, driving while impaired (DWI) courts, and urban drug courts.

- **Adult drug treatment courts** are some of the most common drug courts, focusing on adult offenders with alcohol or drug addiction issues. The purpose of these programs is to reduce recidivism among this population by maintaining more comprehensive judicial oversight, treatment and rehabilitation services, and graduated sanctions and incentives.
- **DWI courts** operate similarly to adult drug treatment courts, with a focus on repeat offenders who are alcohol or drug dependent and are arrested for driving while impaired.
- **Juvenile drug courts** provide similar intervention for juvenile offenders. These juvenile programs also provide counseling and education to both the youth and their families in order to address problems that contribute to drug use.
- **Family dependency courts** focus on cases of child abuse and neglect where substance abuse contributes to the abuse or neglect. They provide programs similar to adult drug treatment courts, with a focus on child welfare cases. The goal of these programs is to aid in the reunification and stabilization of these families, as well as providing services to the abused or neglected children.
- **Urban drug courts** were introduced in the FY 2012-13 budget for specialized drug courts for crimes committed in Saginaw, Flint, Detroit, and Pontiac. These courts are specialized for drug related offenses in high crime cities, and begin operations in October 2012.

These specialty courts are administered by district and circuit courts.

Swift and Sure Sanctions Programs

Some courts have recently introduced Swift and Sure Sanctions programs, which are independent of drug treatment courts. While these programs are funded under the drug treatment court line item, they are not specifically geared towards drug-addicted offenders. These programs are designed as an alternative to traditional probation, swiftly imposing small amounts of jail time in the event that a person on probation violates the terms of their parole, such as through failing a drug test or missing a meeting with a probation officer. These penalties are designed to make the consequences for violating terms of probation more certain, without the need to impose long-term and costly sentences

on probation violators. Candidates for Swift and Sure Sanctions programs are not limited to nonviolent or drug-addicted offenders, and are typically chosen because of the perceived risk that they are likely to violate the terms of their probation.

Swift and Sure Sanctions grants began as a \$1.0 million pilot program in the FY 2011-12 budget, with funding expanded to \$6.0 million in FY 2012-13. Four courts currently receive grants to establish Swift and Sure Sanctions programs, ranging from \$200,000 to \$350,000, with more courts expected in FY 2012-13. Additionally, legislation has been introduced in the Senate (Senate Bills 1140 and 1141 of 2012) to provide statewide standards for Swift and Sure Sanctions program operations.

State Sources of Funding

The total state appropriation for the drug treatment courts line item is \$13.4 million Gross (\$7.1 million GF/GP) in FY 2012-13. This was an overall increase of \$6.3 million from the previous fiscal year, with \$5.0 million of this increase earmarked for Swift and Sure Sanctions grants. An additional \$1.3 million was appropriated for the Urban Drug Court grants, creating new drug court programs in Genesee, Wayne, Oakland, and Saginaw county circuit courts.

Other appropriations within the drug treatment courts line item are for the Michigan Drug Treatment Court Grant Program (MDCGP) and federal grants from the Office of Highway Safety Planning and Byrne Justice Assistance Grants (JAG). Additional funding is used for support of Drug Court Case Management Information Systems (DCCMIS), as well as for administrative support in the State Court Administrative Office (SCAO).

A portion of drug court funding is dependent on state restricted revenue, and in recent years revenue collections have been less than the appropriated amount. The two primary sources of restricted revenue in the drug treatment courts line item are the Drug Treatment Court Fund and Court of Appeals filing and motion fees, though both are designated for separate purposes. The Drug Treatment Court Fund receives a portion of revenue collected by the Justice System Fund, which collects an assessment from all traffic citations, civil infractions, misdemeanors, and felonies. The Judiciary budget appropriates \$1.9 million in revenue from the Drug Court Fund per year. However, due to declines in traffic citations and criminal caseloads in recent years, the actual amount collected in FY 2010-11 was about \$1.3 million.

Similarly, Swift and Sure Sanctions program grants are partially funded by Court of Appeals filing and motion fees (as well as a small amount of miscellaneous revenue). These restricted funds are appropriated at \$1.7 million per year, while total collections for FY 2011-12 are estimated at \$1.4 million. As such, there is a discrepancy between the amount appropriated in the Judiciary budget and the actual amount available for grants and other drug treatment court support services. **Table 1** provides a summary of drug court and Swift and Sure grant amounts awarded in FY 2011-12.

Table 1: Grants Awarded to Counties in FY 2011-12

Types of Drug Treatment Court Grants	Amount Awarded FY 2011-12
Byrne JAG Grant	\$1,800,000
MDCGP Award	2,119,900
OHSP Award	600,000
Swift & Sure Award	1,000,000
Total	\$5,519,900

Source: State Court Administrative Office

The **Edward Byrne Memorial Justice Assistance Grant Program** (also known as Byrne JAG Program) provided \$1.8 million in FY 2011-12 for funding drug treatment court programs. Funds are received from the federal government by the Michigan State Police and transferred to the Judiciary through an Interdepartmental grant (IDG). These grants are intended for programs that target prison-bound offenders, nonviolent felony offenders, and probation violators diagnosed with substance use disorders. In FY 2011-12, 17 Byrne JAG grants were awarded, with grant amounts ranging from \$32,000 to \$203,000.

The **Michigan Drug Court Grant Program (MDCGP)** provides grants to juvenile, adult, family dependency, and DWI court programs annually. These grants are administered and awarded by the State Court Administrative Office (SCAO). The total value of grants distributed for FY 2011-12 was \$2.1 million, distributed to 50 different programs across 30 counties. Grant amounts ranged from \$8,000 to \$94,000.

The **Office of Highway Safety Planning (OHSP) DWI Grant Program** focuses on planning and implementation grants for new and expanding DWI treatment courts. The program is administered by SCAO and funded by a federal grant from the National Highway Traffic Safety Administration, through the Michigan State Police. The OHSP grant program awarded a total of \$600,000 in grants in FY 2011-12 to 15 courts, with award amounts ranging from \$20,000 to \$50,000.

In addition to these grants, a portion of drug treatment court funding is used to manage and support the Michigan Drug Court Case Management Information System (DCCMIS), which was developed by SCAO to assist in the operations of drug courts. This system is available for both the drug court programs and Swift and Sure Sanctions programs. DCCMIS manages client information to track progress, gather summary information, and collect large amounts of data for subsequent analysis and evaluation.

Appendix 1 identifies the grants awarded by the state in FY 2011-12. Several counties also receive funding from federal grants or grants from private groups, but comprehensive data on these grants are not collected at a statewide level. These grants are not guaranteed from year to year and are subject to variation depending on available funds, appropriations by the Legislature, and the actual grant applications filed by each trial court.

Michigan Drug Treatment Court Evaluations²

Due to the increased drug testing, judicial interaction, and support services required by a drug treatment court compared to traditional probation, providing these services comes with additional cost. These programs are more resource-intensive than traditional case processing, requiring additional judicial attention, focused treatment, and penalties for those who reoffend. As such, the initial per participant price of a drug treatment court appears high when compared to traditional probation.

Proponents of drug treatment courts argue that, along with the benefits that come with reduced crime and drug abuse, these increased costs are offset by reductions in recidivism among drug treatment court participants. The State Court Administrative Office (SCAO) estimates that 17.62 percent of drug treatment court participants had been convicted of a new offense within four years of being admitted into a drug treatment court program, compared to 25.41 percent in a similar comparison group.³ Additionally, SCAO estimates that 44% of participants improved their employment status, and 26% improved their education levels after being admitted into a drug treatment court program.

²: As Swift and Sure Sanctions programs are not associated with drug courts, none of the evaluations in this section include such programs in their analysis. As these programs were only established in FY 2011-12, no evaluations have been completed on Swift and Sure Sanctions programs in Michigan.

Along with benefits to participants, state and local governments also receive potential cost savings from drug treatment court operations. Primarily, these costs are associated with reductions in recidivism and reoffending. If drug treatment court participants commit fewer offenses, costs are reduced due to decreases in county jail and state prison populations, as well as costs related to the increase in criminal caseload on local courts.

Reports on sample drug treatment courts in Michigan provide some evidence of the cost and savings tradeoffs associated with drug treatment courts. In 2006, NPC Research conducted evaluations of Kalamazoo and Barry County's drug treatment courts.⁴ The study found increased upfront costs for drug treatment courts combined with notable savings over the course of two years. The costs and benefits reported are listed in **Table 2**. Additional savings would also be realized if recidivism rates remain lower beyond the study's two-year period, as has been indicated by other research. These savings may increase in future years as courts identify more effective ways to increase drug treatment court completion rates.

When evaluating the costs and savings of these drug treatment courts, a key consideration is that recipients of fiscal savings are not necessarily the same as those who spend additional funds on drug treatment courts. For example, in the evaluation of Kalamazoo County, the women's drug court program was funded by a privately funded endowment grant. Thus, savings for the women's drug court are fully realized by state and local governments, while many of the costs during this evaluation period were paid by private sources. As fund sources vary significantly both between districts, as well as over time as grants are received and expire, more detailed analysis of each court would be needed to determine whether savings are realized for state or local governments.

National Study on Drug Treatment Courts

In June 2011, the National Institute of Justice (NIJ) conducted and released a multi-state analysis of the nation's drug treatment courts which found similar costs and savings in drug treatment courts across the country.⁵ The report concluded that "drug courts - while effective at reducing costly criminal offending - are also expensive enough to offset those costs." The net effect was a reduction in harm (including both costs and associated victimization costs) of about \$6,000 per participant, but that a majority of these benefits came from a small number of cases. Most crime reduction related to drug treatment courts are from low-level offenses, which would have relatively low victimization costs. As such, even though these courts reduced criminal offenses, the actual cost savings were not very high in most circumstances.

However, the report does note that there are a few outliers which result in significant savings, indicating that "drug courts appear to make those who would commit the most serious harms less harmful to society." Violent crimes, such as homicides, result in the highest estimated victimization costs, and though the actual number of such crimes prevented by drug treatment courts is estimated to be low, these few reductions account for much of the reduced victimization costs identified in the

Table 2: Costs and Savings of Sample Drug Treatment Courts

Barry County	
Costs	\$6,822
Savings	\$3,270
Net Cost (Savings)	\$3,552
Kalamazoo County	
Men's Drug Treatment Court	
Costs	\$5,541
Savings	\$902
Net Cost (Savings)	\$4,639
Women's Drug Treatment Court	
Costs	\$5,103
Savings	\$5,948
Net Cost (Savings)	(\$845)

All costs are additional cost compared to traditional court processing. All savings are savings compared to traditional court processing over two years.

³: <http://courts.michigan.gov/scao/resources/publications/reports/MDTC11.pdf>
⁴: Studies available at: http://www.npcresearch.com/Files/Barry%20Final%20Report_1006.pdf,
http://www.npcresearch.com/Files/Kalamazoo%20Final%20Report_1006.pdf

NIJ's evaluation.

Drug court programs yield a small but notable number of outliers which then create larger than average returns on investment. The fact that these results are outliers makes extrapolating predictable cost savings problematic, but indicates further potential for savings related to drug treatment courts, especially in treating offenders who are more likely to commit violent crimes in the future. Thus, the report indicates that the courts may have additional success in finding savings by admitting more violent or higher risk offenders.

While the short-term fiscal impact of drug treatment court programs may be ambiguous, several studies have shown significant reductions in crime and recidivism across those who participate in drug treatment court programs. There are fewer arrests, subsequent court cases, and victimizations from those who participate in the drug treatment court program than traditional parole programs. Thus, there would be some secondary fiscal and social benefits due to reductions in crime and increased economic output. The full effect of such benefits may not be seen until several years after a program has begun operation, and would not necessarily be clearly attributable to a drug treatment court program.

The expected costs and benefits of drug treatment courts will vary from court to court based on the demographics of a trial court's jurisdiction, the resources available to a drug treatment court, and those specific courts' policies. Further analysis may provide additional insight into the potential returns for a drug treatment court, or courts themselves may become more efficient as best practices are identified and programs become more efficient and effective.

⁵: <http://www.nij.gov/topics/courts/drug-courts/madce.htm#results>

Appendix 1: FY 2011-12 Grants Awarded to Drug Treatment Courts by County

Court	Byrne JAG Award	MDCGP Award	OHSP Award	Swift & Sure Award	Total 2012 Awards
Alcona County 23rd Circuit - Adult		\$13,500			\$13,500
Allegan County 48th Circuit - Adult		\$59,000	\$40,000		\$99,000
Alpena County 26th Circuit - Juvenile 88th District - Adult		\$25,000 \$25,000			\$25,000 \$25,000
Barry County Barry County Trial - Juvenile Barry County Trial - Adult		\$75,000		\$263,186	\$363,186 \$75,000
Bay County 18th Circuit - Family Dependency 74th District -DWI		\$52,600			\$52,600 \$100,000
Benzie County 19th Circuit - Juvenile 85th District - Adult		\$24,000 \$49,000			\$24,000 \$49,000
Berrien County 2nd Circuit - Adult				\$199,978	\$199,978
Calhoun County 10th District - Adult 37th Circuit - Adult			\$50,000		\$50,000 \$75,000
Cass County 4th District - Adult 43rd Circuit - Family Dependency			\$50,000		\$50,000 \$75,000
Charlevoix County 33rd Circuit -Juvenile		\$56,300			\$56,300
Cheboygan County 53rd Circuit - Adult	\$80,000				\$80,000
Eaton County 56th Circuit - Adult	\$115,000				\$115,000
Emmet County 57th Circuit - Juvenile		\$89,000			\$89,000
Genesee County 7th Circuit - Adult 7th Circuit - Family Dependency	\$203,000		\$50,000		\$253,000 \$75,000
Gladwin/Clare Counties 80th District - Adult		\$20,000			\$20,000
Grand Traverse County 13th Circuit - Juvenile 86th District - DWI		\$38,000 \$40,000			\$38,000 \$40,000
Gratiot County D65B District - Adult			\$40,000		\$40,000
Hillsdale County 1st Circuit - Family Dependency		\$10,000			\$10,000
Ingham County 30th Circuit - Family Dependency 54A District - DWI 55th District - DWI		\$53,000 \$34,500 \$44,500		\$20,000	\$53,000 \$34,500 \$64,500
Ionia County 8th Circuit - Adult 64A District -DWI			\$50,000		\$50,000 \$60,000

Iron County				
41st Circuit - Adult		\$60,000		\$60,000
Isabella County				
21st Circuit - Adult		\$37,000	\$351,844	\$388,844
21st Circuit - Juvenile		\$37,000		\$37,000
Jackson County				
4th Circuit - Adult	\$100,000			\$100,000
Kalamazoo County				
8th District - DWI		\$24,000		\$24,000
9th Circuit - Adult - Men	\$75,000			\$75,000
9th Circuit - Adult - Women	\$75,000			\$75,000
9th Circuit - Family Dependency		\$16,000		\$16,000
Kent County				
61st District, Grand Rapids - Adult	\$100,000		\$40,000	\$140,000
Lenawee County				
2A District - Adult			\$20,000	\$20,000
Livingston County				
44th Circuit - Adult	\$65,000	\$18,000		\$83,000
44th Circuit - Family Dependency		\$60,900		\$60,900
Macomb County				
16th Circuit - Adult		\$40,000		\$40,000
37th Circuit, Warren - Adult	\$100,000	\$25,000		\$125,000
41B District, Clinton Township, Adult			\$50,000	\$50,000
Marquette County				
25th Circuit - Family Dependency		\$10,000		\$10,000
96th District - DWI		\$53,000	\$20,000	\$73,000
Mecosta County				
77th District - DWI			\$50,000	\$50,000
Midland County				
42nd Circuit - Adult	\$75,000			\$75,000
Muskegon County				
60th District - DWI	\$32,000	\$14,000	\$20,000	\$66,000
Oakland County				
6th Circuit - Adult		\$36,000		\$36,000
6th Circuit - Juvenile		\$40,000		\$40,000
51st District, Waterford - DWI		\$40,000		\$40,000
52-3 District, Rochester Hills - DWI		\$21,000		\$21,000
Ogemaw County				
34th Circuit - Family Dependency		\$8,000		\$8,000
Otsego County				
87A District - Adult		\$94,000		\$94,000
Ottawa County				
20th Circuit -Adult	\$175,000			\$175,000
20th Circuit - Juvenile		\$62,000		\$62,000
58th District - DWI		\$69,000		\$69,000
Saginaw County				
10th Circuit - Adult		\$20,000		
10th Circuit - Family Dependency		\$26,000		\$26,000

Van Buren County				
36th Circuit - Adult	\$150,000	\$52,600		\$202,600
Washtenaw County				
15th District - DWI		\$63,000	\$50,000	\$113,000
Wayne County				
3rd Circuit - Adult	\$180,000		\$184,992	\$364,992
3rd Circuit - Juvenile		\$63,000		\$63,000
16th District, Livonia - DWI		\$72,000		\$72,000
19th District, Dearborn - Adult		\$35,000		\$35,000
23rd District, Taylor - Adult		\$35,000	\$50,000	\$85,000
33rd District, Woodhaven - DWI		\$36,000		\$36,000
36th District, Detroit - Adult		\$34,000		\$34,000
Total	\$1,800,000	\$2,119,900	\$600,000	\$5,499,900

Source: State Court Administrative Office